

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0234

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB1025** - 1/25/99

Introduced by: The Committee on Health and Human Services at the request of the Department
of Social Services

1 FOR AN ACT ENTITLED, An Act to revise confidentiality provisions regarding Department
2 of Social Services record information concerning abuse or neglect resulting in the fatality or
3 near fatality of a child.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 26-8A-13 be amended to read as follows:

6 26-8A-13. All investigative case records and files relating to reports of child abuse or neglect
7 are confidential, and no disclosure of any such records, files, or other information may be made
8 except as authorized in chapter 26-7A or this chapter. Any person who knowingly violates the
9 confidential nature of the records, files, or information is guilty of a Class 1 misdemeanor. The
10 Department of Social Services may release records, files, or other information to the following
11 parties upon the receipt by the department of a request showing that it is necessary for the parties
12 to have such information in the performance of official functions relating to child abuse or
13 neglect:

14 (1) The attorney general, the state's attorneys, law enforcement agencies, protective
15 services workers, and judges of the courts investigating reports of known or
16 suspected child abuse or neglect;

- 1 (2) The attorney or guardian ad litem of the child who is the subject of the information;
- 2 (3) Public officials or their authorized representatives who require the information in
- 3 connection with the discharge of official duties;
- 4 (4) Institutions and agencies that have legal responsibility or authorization to care for,
- 5 treat, or supervise a child who is the subject of the information or report;
- 6 (5) An adoptive parent of the child who is the subject of the information or report and a
- 7 licensed child welfare agency, a tribal agency which the Department of Social Services
- 8 has an agreement with to provide child welfare agency services which would
- 9 otherwise require licensure by the department or any private child welfare agency
- 10 whose licensure has been waived pursuant to § 26-6-9, for screening of applicants;
- 11 (6) A state, regional, or national registry of child abuse and neglect cases and courts of
- 12 record of other states;
- 13 (7) A validly appointed and registered child protection team under § 26-8A-17;
- 14 (8) A physician who is caring for a child whom the physician reasonably suspects may be
- 15 abused or neglected;
- 16 (9) State hearing examiners and any person who is the subject of the report for purposes
- 17 directly related to review under § 26-8A-11; and
- 18 (10) A person eligible to submit an adoptive home study report under § 25-6-9.1 or
- 19 26-4-15. However, the information may only be released for the purpose of screening
- 20 applicants.

21 Information received by an authorized receiving party shall be held confidential by the
22 receiving party. However, the court may order the release of the information or any portion of
23 it necessary for determination of an issue before the court.

24 However, the Department of Social Services may release information and findings to the
25 media regarding the abuse or neglect of a child that resulted in a fatality or near fatality of the

1 child if the release of the information has been approved by the prosecutor who has commenced
2 or who has authority to commence legal action, and, if such disclosure has been authorized by
3 the court and is not contrary to the best interests of the child, the child's siblings, or other
4 children in the household. The information to be released shall relate to the acts of child abuse
5 or neglect that caused the fatality or near fatality of the child. However, the identity of the child
6 may never be released. For the purpose of this chapter, near fatality means an act that, as
7 certified by a physician, places the child in serious or critical condition.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Judiciary. H.J. 36

3 1/15/99 Scheduled for Committee hearing on this date.

4 1/15/99 Judiciary Deferred to another day.

5 1/22/99 Scheduled for Committee hearing on this date.

6 1/25/99 Scheduled for Committee hearing on this date.

7 1/25/99 Judiciary Do Pass Amended, Passed, AYES 10, NAYS 3. H.J. 168